

REMARKS

Claims 1-9, 17-19, 21-27, 37, 39-45, 65-67, 70-74 and 115-117 are pending in the present application with the remainder of the claims withdrawn. With entry of this Amendment, Applicants amend claims 1, 18, 19, 37, 65 and 70. Reexamination and reconsideration are respectfully requested.

The Examiner rejected claims 1, 2, 5, 7-9, 17-19, 23-27, 37, 41, 43-45, 65, 70-72, 74 and 115-117 under 35 U.S.C. § 102(e) as being anticipated by Katz et al. (U.S. Patent No. 5,926,624). Claims 3, 4, 6, 21, 22, 39, 40, 42, 66, 67 and 73 were rejected under § 103(a) as being unpatentable over Katz in view of Dodd (U.S. Patent No. 6,633,849 B1). The rejections are respectfully traversed.

Claims 1-9, 17 and 18

The present invention, as set forth in claim 1, is directed to a content distribution system comprising a distribution server, a client terminal and a portable terminal. The client terminal requests that the distribution server distribute a content item to the portable terminal.

Applicants have amended claim 1 to recite that the distribution server comprises “a charging means for charging a fee to a user of said portable terminal when the content item is distributed to said portable terminal.” Dependent claim 18 has been amended accordingly. Support for these amendments are found throughout the specification including, without limitation, at page 34, line 7 to page 35, line 3 and page 92, lines 9-21.

Katz does not disclose a system of a distribution server, a client terminal and a portable terminal where the client terminal requests the distribution server to distribute a content item to the portable terminal and the distribution server charges a fee to the user of the portable terminal when the content item is distributed.

Katz is directed to a computer network with library server 260, a client site 210 and a mobile playback device 212. (See, e.g., Fig. 2.) Katz discloses that the browser 219 of the client

site 210 can be used to purchase a program. (See, e.g., Col. 8, line 65 to Col. 9, line 6; Col. 11, lines 1-8.) The library server 260 manages purchase and delivery of the selected digital information files. (See, e.g., Col. 8, lines 7-12.) The files can be delivered directly to the playback device 212 or through the client site 210. (See, e.g., Col. 17, lines 30-35.)

Regardless of the ultimate destination of the digital file, the transaction is between the library server 260 and the client site 210. That is, the library server and the client browser 219 of the client site 210 are the sole actors in the transaction. There is no disclosure that a fee is charged by the library server 260 to the user of the mobile playback device 212 when the program is delivered to device 212. Indeed, Katz makes very clear that the mobile playback device 212 in the preferred embodiment is a minimally configured device used essentially to just receive and playback the program. (See, e.g., Col. 10, lines 3-14.) It is not designed to handle any purchase-related actions.

Other embodiments disclosed in Katz and discussed below also fail to anticipate claim 1. Katz discloses an embodiment in which the client site is eliminated and the mobile playback unit 212 is directly connected to the network. (See, e.g., Col. 16, lines 63-66 and Col. 17, lines 20-26.) However, this embodiment by definition does not include a client terminal as recited in claim 1.

Katz also discloses an embodiment with a computer kiosk 910. (See Col. 17, line 59 to Col. 18, line 18 and Fig. 9.) The kiosk 910 contains a local library server process 460 for fast local access and download of content, and has a client browser 219 that allows a user to select and purchase a digital file to be delivered to the mobile playback device 212. The transaction, thus, occurs at the kiosk. (See Col. 17, lines 63-65.) There is no disclosure that a distribution server charges a fee to the user of the mobile playback device 212 when the file is delivered. This is particularly evident in view of Fig. 9, which illustrates the kiosk connected to authoring system 280 and authorization server 270. Katz does not disclose that system 280 or server 270 can handle any purchase-related actions.

In short, Katz fails to disclose a system of a distribution server, a client terminal and a portable terminal where the client terminal requests the distribution server to distribute a content item to the portable terminal and the distribution server charges a fee to the user of the portable

terminal when the content item is distributed. Accordingly, Applicants respectfully submit that claim 1 is not anticipated by Katz.

Applicants respectfully submit that claims 2, 5, 7-9, 17 and 18 – which depend from claim 1 – are not anticipated by Katz for at least the reasons set forth above.

Claims 3, 4 and 6 also depend from claim 1. The Examiner rejected these claims as being unpatentable in view of Katz and Dodd. It is believed that Dodd does not make up for the deficiencies of Katz.

Dodd is directed to a system for electronically forwarding a gift to a recipient. The system as illustrated in Figs. 3 and 4 comprises a gift giver node or computer 310, a gift server computer system 330 and a gift recipient node (not illustrated in Figs. 3 and 4). A gift giver accesses the gift server computer system 330 and selects a gift for the recipient. The gift server computer system 330 then notifies the recipient. The recipient has the option to accept the gift, exchange it or forward it to another recipient. (See, e.g., Col. 12, lines 14-54.) There is no disclosure or suggestion that the gift server computer system 330 charges a fee to the recipient when the gift requested by the gift giver is delivered to the recipient. After all, it is a gift.

Note that Dodd discloses that payment information from the recipient may be obtained if the recipient exchanges the gift for a more expensive gift or forwards a more expensive gift to the another recipient. (See, e.g., Col. 12, lines 42-46.) This is only due to the fact that the recipient has changed the gift. If the recipient accepts what the gift giver has selected, there is no disclosure that the recipient is charged a fee by the gift server computer system 330. Accordingly, Applicants respectfully submit that claims 3, 4 and 6 are patentable over Katz and Dodd.

Claims 19 and 22-27

Applicants have amended independent claim 19 to recite “a fee to a user of said portable terminal is charged when the content item is distributed to said portable terminal.” It is believed that claim 19 is not anticipated by Katz for at least the reasons set forth above with respect to claim 1.

Applicants respectfully submit that claims 23-27 – which depend from claim 19 – are likewise not anticipated by Katz for at least the reasons set forth above with respect to claim 19.

Claims 21 and 22, which also depend from claim 19, were rejected in view of Katz and Dodd. Applicants respectfully submit that these claims are patentable over Katz and Dodd for at least the reasons set forth above with respect to claims 3, 4 and 6.

Claims 37 and 39-45

Applicants have amended independent claim 37 to recite a distribution server comprising “charging means for charging a fee to a user of said portable terminal, when the content item is distributed to said portable terminal” It is believed that claim 37 is not anticipated by Katz for at least the reasons set forth above with respect to claim 1.

Applicants respectfully submit that claims 41 and 43-45 – which depend from claim 37 – are likewise not anticipated by Katz for at least the reasons set forth above with respect to claim 37.

Claims 39, 40 and 42, which also depend from claim 37, were rejected in view of Katz and Dodd. Applicants respectfully submit that these claims are patentable over Katz and Dodd for at least the reasons set forth above with respect to claims 3, 4 and 6.

Claims 65-67

Applicants have amended independent claim 65 to recite in the preamble “the distribution server including charging means for charging a fee to a user of said portable terminal, when the content item is distributed to said portable terminal.” Although claim 65 is directed to a portable terminal, this amendment clarifies the environment in which the portable terminal operates. It is believed that Katz fails to disclose a portable terminal operating in conjunction with a distribution server and client terminal where the portable terminal’s user is charged a fee when a content item requested by the client terminal is distributed to the portable terminal by the distribution server.

Claims 66 and 67 depend from claim 35 and were rejected in view of Katz and Dodd. Applicants respectfully submit that these claims are patentable over Katz and Dodd given that Dodd fails to disclose a portable terminal operating in conjunction with a distribution server and client terminal where the portable terminal's user is charged a fee when a content item requested by the client terminal is distributed to the portable terminal by the distribution server.

Claims 70-74 and 115-117

Applicants have amended claim 70, which is directed to a computer-readable recording medium on which is recorded a program applied to a client computer capable of communicating with a distribution server, to recite that the program comprises "content request processing for requesting said distribution server to distribute the content item to said portable terminal, so that the distribution server charges a fee to a user of said portable terminal when the content item is distributed to said portable terminal." This amendment is made to clarify the environment in which recording medium operates. It is believed that Katz fails to disclose a medium that records a program that requests the distribution server to distribute a content item to a portable terminal so that a fee is charged to the user of the portable terminal when the content item is distributed to the portable terminal.

Applicants respectfully submit that claims 71, 72, 74 and 115-117 – which depend from claim 70 – are likewise not anticipated by Katz for at least the reasons set forth above with respect to claim 70.

Claim 73 depends from claim 70 and was rejected in view of Katz and Dodd. Applicants respectfully submit that this claim is patentable over Katz and Dodd given that Dodd fails to disclose a medium that records a program that requests the distribution server to distribute a content item to a portable terminal so that a fee is charged to the user of the portable terminal when the content item is distributed to the portable terminal.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

If, for any reason, the Examiner finds the application other than in condition for allowance, Applicants request that the Examiner contact the undersigned attorney at the Los Angeles telephone number (213) 892-5630 to discuss any steps necessary to place the application in condition for allowance.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing Docket No. 393032025900.

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Respectfully submitted,

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